

STATE OF DELAWARE THE COURTS OF THE JUSTICES OF THE PEACE 820 NORTH FRENCH STREET, 11TH FLOOR WILMINGTON, DELAWARE 19801

NORMAN A, BARRON Chief Magistrate TELEPHONE: (302) 571-2485

POLICY DIRECTIVE 80-010

TO:

ALL JUSTICES OF THE PEACE

STATE OF DELAWARE

FROM:

NORMAN A. BARRON

CHIEF MAGISTRATE

DATE:

AUGUST 11, 1980

RE:

ATTENDANCE OF JUSTICES OF THE PEACE IN COURT DURING HOURS OF THEIR.

ASSIGNMENTS

- (1) This Directive is intended to reaffirm and clarify policy with respect to the attendance of Justices of the Peace in the Courts during the hours of their assignments.
- (2) 10 <u>Del.C.</u>, §9205 provides that the Justice of the Peace Courts shall be <u>open</u> at such times as provided by the Rules and that there shall be at least one Justice of the Peace <u>available</u> at all times in Kent and Sussex Counties and at least two Justices <u>available</u> at all times in New Castle County.
- (3) The words "open" and "available" are deemed to mean that a Justice of the Peace shall be in attendance in the Court Building.
- (4) The Justice of the Peace shall not be considered on duty, or "available" as required by the Statute, when he is at home or elsewhere during his tour of duty.
- (5) The Justice of the Peace shall be entitled to a one hour lunch or dirner period; he shall not absent himself from the Court Building for any other purpose during his assigned hours except in an emergency. If an emergency

occurs which makes it impossible for a Justice of the Peace to comply with this requirement, he should notify the Justice of the Peace who is to follow him on duty before leaving the Court Building. If he is unable to do so, he is expected to notify either the Deputy Chief Magistrate of the County, the Chief Magistrate, or the Court Administrator, at office or residence.

- (6) During those shifts on which there is also a Clerk in attendance, the Justice of the Peace shall arrange the lunch or dinner periods so that either the Justice of the Peace or the Clerk shall be in attendance in the Court Building at all times.
- (7) The Justice of the Peace shall <u>not</u> take his meal period during either the first or the last hour of his Court assignment. Where applicable, the Justice of the Peace is expected to remain in the Court on assignment until relieved.
- (8) When feasible, the Justice of the Peace sitting in either Court No. 10, 11 or 15 shall advise RECOM of the time of the anticipated meal recess and, where possible, shall do so at least thirty (30) minutes in advance of the anticipated recess. Justices of the Peace assigned to said Courts shall also, when feasible, stagger their meal recesses to ensure that at least one of the said Courts has a Justice of the Peace readily available to hear criminal matters at any given time. Feasibility, as used herein, will, of course, depend upon the totality of the circumstances, to wit: Court congestion, freedom from other judicial duties, etc. This paragraph is promulgated not out of a sense of judicial duty since, surely, it is not the duty of a Justice of the Peace to notify the police of an anticipated meal recess. Rather it is predicated upon professional courtesy only. If reasons become evident in the future as to why you believe this courtesy should not be extended, please advise the Deputy Chief Magistrate of your County and the Chief Magistrate.

(9) Should a traffic offender be brought before you and he desires an immediate trial, all witnesses then being present, every effort should be made to accommodate the defendant even when it interferes with your scheduled meal recess. The defendant is entitled to an immediate trial if he wants one and the officer is present. Judicial economy favors the expeditious disposition of cases, even at the expense of a disrupted meal recess.

This policy directive supercedes all prior directives inconsistent herewith.

NAB: pm

cc: The Honorable Daniel L. Herrmann John R. Fisher Arthur R. Carello Files



STATE OF DELAWARE JUSTICE OF THE PEACE COURTS

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PATRICIA WALTHER GRIFFIN CHIEF MAGISTRATE 820 N. FRENCH STREET
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TELEPHONE: (302) 577-6001

POLICY DIRECTIVE 80-010 (Supplement)

TO:

ALL JUSTICES OF THE PEACE

ALL NON-JUDICIAL STAFF

FROM:

HON. PATRICIA W. GRIFFIN

CHIEF MAGISTRATE

DATE:

OCTOBER 26, 1999

RE:

ATTENDANCE OF JUSTICES OF THE PEACE/COURT STAFF IN

COURT DURING HOURS OF THEIR ASSIGNMENTS

There have been a growing number of complaints alleging that Justice of the Peace Courts have been closed earlier than their hours of operation would permit. As a consequence, we have conducted, and will continue to conduct, checks concerning the times of actual closure by various Justice of the Peace Courts. Violations have been reported and individual violators (judges and clerks) will be contacted regarding these violations. This policy is to reaffirm and clarify the attendance policy with respect to Justices of the Peace in the courts during their hours of assignment and to provide a reminder that it is a judge's ethical responsibility, pursuant to Canon 3(B)(1) and (2) of the Delaware Judges' Code of Judicial Conduct, to meet their court assignments (excepting emergencies).

In recognition of the importance of adhering to statutory requirements and court existing policy regarding hours of court operation, this policy is being reissued and clarified. Any subsequent change to this policy shall be in writing. This policy supercedes any previous verbal or written directives that are inconsistent with it. (This supplement does not rescind any provision of the policy set forth in the original Policy Directive 80-010, "Attendance of Justices of the Peace in Court During Hours of Their Assignments", (August 11, 1980) but reaffirms and expands on those directives.)

Canon 3(B)(1) and (2) state: "B. Administrative Responsibilities. (1) A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials. (2) A judge should require staff and court officials subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge."

- (1) 10 Del. C. § 9205 provides that the Justice of the Peace Courts "shall be open at such times as shall be provided by the rules; provided, however, that in each county there shall be at least one Justice available at all times".
- (2) The words "open" and "available" are deemed to mean that a Justice of the Peace shall be in attendance at the court building.
- (3) The Justice of the Peace shall not be considered on duty, or "available" as required by the statute when he or she is at home or elsewhere during their court assignment.
- (4) The Justice of the Peace shall be entitled to a one-hour lunch or dinner period; he or she shall not be absent from the court building for any other purpose during his or her assigned hours except in an emergency. If an emergency occurs, before leaving the building, the judge should notify the Justice of the Peace who is to follow him or her on duty to see if they can cover in the judge's absence. If the Justice of the Peace is unable to do so, the judge is expected to notify either the Deputy Chief Magistrate of their county, the Chief Magistrate or the Court Administrator, at their office or residence.
- (5) When more than one judge is available at a court or conjoined courts, judges should make an effort to arrange the lunch and dinner period so that one of the judges will be in attendance at the court building at all times.
- (6) The Justice of the Peace Courts may not close or suspend operations during a lunch or dinner hour, or for other purposes without prior approval from the Deputy Chief Magistrate of the county, and either the Court Administrator or the Operations Manager for that county.
- (7) Work should be accepted up until the last point of time in which the work can be completed by the end of the shift. For simple transactions, this may be up until a few minutes before the court closes (i.e., acceptance of fine payments or a simple arraignment). Work should not be turned away any sooner than half an hour before the time the court closes and every effort should be made to accept all work which can be completed by the time the court closes and/or can be easily handled by the judge on the next shift.
- (8) The judge shall <u>not</u> take his or her meal period during either the first or last hour of the judge's court assignment. Excepting emergencies (with notice to their Deputy Chief Magistrate, Chief Magistrate or the Court Administrator), a judge is expected to remain in a court on assignment until relieved by another judge, or until the time the court closes at the end of their shift.
- (9) When feasible, the judge is asked to advise RECOM, KENTCOM OR SUSCOM, respectively, of the time of their meal recess and shall make every attempt to provide that notice at least 30 minutes prior to the anticipated meal recess. Judges assigned to courts in each county are also asked, when feasible, to stagger their meal recesses to ensure that at least one of the courts in that county has a Justice of the Peace readily available to hear

criminal matters at any given time. Feasibility is dependent upon the totality of the circumstances, including court congestion, freedom from other judicial duties, etc. Advance notice of a judge's meal recess should help minimize complaints and conflicts related to police arriving immediately before a judge's announced departure for a meal recess. In return, this professional courtesy being extended to law enforcement agencies should result in fewer persons being brought to the court at the last minute. This also highlights the importance of a judge returning from their meal recess no later than one hour after leaving to clear up the delays/backlogs that may have accumulated during their absence.

- (10) Every effort should be made to accommodate waiting defendants and others in setting the schedule for a judge's meal recess. I realize that there are many times when a judge is unable to take a meal recess during their shift or that there are times when a judge will have scheduled plans which make it difficult to change their anticipated meal hours. With the continuing growth in the Justice of the Peace Court's caseload, the demands on judges' time will continue to increase and judges are expected to act professionally in balancing the workload demands of the court and the judges' scheduling of their meal recess.
- to coordinate coverage with other judges' covering their courts to enable them to leave early. They are expected to be available in the court at all times they are assigned for their shift to answer questions and to handle emergencies. The scheduling is required to ensure fairness throughout the system. Civil judges who find they need to spend time past their assigned working hours to finish trials and/or write case opinions should thereafter request compensatory time from their Deputy Chief Magistrate for the extra hours worked. (Approval to use compensatory time and leave a civil court early should be obtained from a judge's Deputy Chief Magistrate or the Chief Magistrate, who will review the civil court calendar.)

PWG/crm

cc: Hon. E. Norman Veasey

Hon. Randy J. Holland

Hon. Henry duPont Ridgely

Hon. Alex J. Smalls

Hon. Vincent J. Poppiti

Hon. Alicia Howard

Keith R. Brady, D.A.G.

All Delaware Police Agencies

Thomas W. Nagle

Anna A. Lewis

H. John Betts

Larry Sipple

Law Libraries: New Castle County, Kent County, Sussex County,

Widener University School of Law